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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,682	03/11/2004	Joel A. Schwartz	10189-002001	6249

26161 7590 08/20/2009

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 08/20/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10798682	3/11/2004	SCHWARTZ, JOEL A.	10189-002001

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EXAMINER

BRANON C. PAINTER

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3633	20090810

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Commissioner for Patents

The Appeal Brief filed on 02 Jun 2009 is defective for failure to comply with one or more provisions of 37 CFR41.37.

The Summary of Claimed Subject Matter should explicitly map each independent claim limitation to the disclosure thereof in the specification. The Examiner suggests adding to this section each independent claim and parenthetically listing these disclosures within the body of the claim.

The Arguments section should include subheadings that list every claim discussed thereunder (i.e. "Claims 1, 3-5, and 7-9 are not anticipated...").

Evidence: Applicant cannot present new evidence in an Appeal that has not been previously presented during prosecution. As none of the Exhibits were presented during the prosecution of the case, they cannot be relied upon in an Appeal. Furthermore, Applicant must edit the Summary of Claimed Subject Matter (and all other sections) to remove references to these unacceptable Exhibits and must include a new Evidence Appendix listing "None."

/Branon Painter/
Examiner, Art Unit 3633